



## **Montana Fish, Wildlife & Parks**

Region Four Headquarters  
4600 Giant Springs Road  
Great Falls, MT 59405  
September 18, 2007

### **Decision Notice and Final Environmental Assessment Little Muddy Creek Fishing Access Site Lease**

#### **Description of Proposed Action**

On July 6, 2007, Montana Fish, Wildlife & Parks (FWP) published an Environmental Assessment (EA) for public review regarding the proposed lease of 22-acres of DNRC land located on the Missouri River at Little Muddy Creek, for development as a Fishing Access Site (FAS). This EA was developed in response to DNRC publishing a Checklist Environmental Assessment dated August 6, 2006 that selected Alternative B, which allowed a lease to be issued to FWP for a public fishing access site.

FWP proposed a 10-year lease on the property from DNRC using the FWP Fishing Access Acquisition account. This property has been previously leased as a home site since 1974.

This property would provide many opportunities for recreationists, including fishing, hunting, bird watching, hiking, and boating as well as a good halfway point for floaters from the Town of Cascade boat launch to the Ulm Bridge FAS boat launch. FWP's proposed action would involve future development of the site to include standard public facilities such as an access road, a parking area, and a latrine. Until development occurs, the site will not be managed for public access.

#### **Public Comments**

The Draft Environmental Assessment posted by FWP for public comment from July 6 through August 6, 2007 received a total of 25 public comments, with all comments generally opposing FWP's proposed action. The DNRC Checklist Environmental Assessment was available for public comment from May 15 through June 15, 2006, and received a total of 21 replies. Most of these comments were statements in support of FWP leasing the site for use as an FAS.

#### **Those opposing the proposed action cited the following issues:**

- 1) Impacts to wildlife habitat.

*Response: As described in the EA, DNRC does not actively manage fish and wildlife at the property. Management by FWP would ensure that public use of the proposed*

*FAS would be managed in accordance with regulations that protect habitat and wildlife populations while providing public recreational opportunities. It is reasonable to expect that habitat and the diversity of game and non-game animals would improve because of this action. Although human use is expected to increase as a result of this action, which may displace some animals, land stewardship and habitat protection by FWP would result in maintenance and improvement of wildlife habitat by minimizing human caused habitat perturbations.*

**2) Risk of wildfire.**

*Response: Regulations for the site would not allow campfires to minimize the potential threat from fire. FWP is concerned about the risk of wildland fire and frequently takes steps to implement fire, smoking, and internal combustion engine restrictions during times of high fire hazard. Fire suppression on this site is the responsibility of local fire departments dispatched by the County 911 system, just like it would be on neighboring landowner's properties.*

**3) Littering, trash and maintenance concerns.**

*Response: under the adopted alternative, the Region 4 Parks maintenance crew would provide routine site maintenance, which includes cleanup of litter and trash. Responsible users and observant neighbors who report littering could help to deter problems. FWP acknowledges that litter is a chronic problem on all public lands. However, the presence of litter is not justification for not acquiring additional public access for legitimate sportsmen and women and recreationists. The FWP Parks Division Leave No Trace educational initiative is another tool currently in use to reduce littering. Other potential solutions could involve adoption of the site for cleanup by individuals or a group.*

**4) Environmental impacts.**

*Response: Future development of recreational facilities (parking, boat launch, etc.) and any potential impacts would be subject to a separate Environmental Assessment. The only physical impact associated with this action is the construction of a fence on the south boundary; the result of this construction would likely have beneficial impacts to vegetation on the property. Also, FWP Parks Division has an active Leave No Trace outdoor ethics education initiative, where recreationists using the river are encouraged to practice Leave No Trace techniques by minimizing their social and resource impacts.*

**5) Noise Pollution.**

*Response: Sportsman and outdoor recreationists using the site should not increase noise levels significantly. In addition, the closest residence is 0.4 miles from the property. The site will be available for day use only with no overnight camping or nighttime activities permitted and FWP will follow the guidelines of the good neighbor policy, all of which would mitigate this concern. This regulation will be posted accordingly and enforced by FWP Wardens.*

6) More Traffic.

*Response: Use of the site likely will result in additional traffic on Old US Highway 91. Based on other sites along the Missouri River, DNRC estimated in May 2006 that the site could receive an average of 2-10 vehicles per day depending on the time of year. The road surface and alignment was designed as a U.S. primary highway and is adequate to support the additional traffic generated by this FAS. Enforcement of traffic laws would fall under the jurisdiction of the Cascade County Sheriff and/or the Montana Highway Patrol.*

7) Blind Curve on Road.

*Response: The gravel road accessing the site is located on a straight away with adequate site distance. Site distance to the northeast is at least 0.25 miles and to the southwest, it is substantially farther and likely exceeds 0.5 miles.*

8) The North Cascade FAS Site is underutilized.

*Response: FWP has observed significant use on this new site and have received feedback that it is well designed and well received.*

9) Already multiple sites between Cascade and Ulm.

*Response: Although there are several FAS sites on the Missouri River in the area, the Little Muddy Creek site is strategically located mid way between existing sites and can increase choices for recreational opportunities, increase the distribution of use and help decrease crowding on the river. The Little Muddy Creek site is 7.7 miles downstream from the New North Cascade FAS and 17 miles downstream from the Pelican Point FAS. It is 10.1 miles from the Little Muddy Creek site downstream to the Dunes FAS, which is a carry out only site, and 13.2 miles downstream to the Ulm bridge site, where there is a full service boat ramp. This tract is nearly in the middle of a river stretch 17.8 miles in length between upstream and downstream access points; the distance between existing access sites with full access boat ramps is 21 miles. This site would fill that a need for enhanced floating and river recreation opportunities in this reach.*

10) Concern about wild parties.

*Response: Disorderly conduct on the site would not be tolerated and would be enforced by FWP Wardens. Also, the site will be available for day use only with no overnight camping or nighttime activities permitted, which would help to mitigate this concern. Enforcement of minor in possession laws falls under the jurisdiction of the Cascade County Sheriff's Office and periodic patrols of the site, and/or responses to public complaints would be appropriate.*

11) Concerned about potential overnight or late night use.

*Response: The site will be available for day use only with no overnight camping or nighttime activities permitted, which would mitigate this concern. This regulation will be posted accordingly and enforced by FWP Wardens. Gate closings could be implemented if chronic problems develop.*

12) Concern about train traffic if BNSF places the tracks in use in the future.

*Response: Access to the property requires a public use railroad-crossing permit from BNSF, even though the line has not been used for years. In the past, the permit for this crossing was only for a private residence. BNSF requires that the permit holder provide liability insurance as part of the permit requirements. Compliance with the BNSF permit is required by DNRC with the cost borne by FWP, the lessee. The driveway approach to the frontage road and the tracks has good sight distances in both directions for access to the road and to observe any train traffic.*

13) Vandalism and safety.

*Response: Vandalism, theft and public safety on private property is beyond the jurisdictional limits of FWP. However, FWP staff would cooperate fully to the best of their abilities to minimize the potential for this occurring on adjacent private land. The county has laws in place, enforcement and prosecution mechanisms to address improper activities on private property. FWP Wardens have the authority to enforce trespass law and would cooperate fully to the best of their abilities in any investigation. FWP will make every effort to post appropriate signs warning against trespass onto private property. FWP will aggressively respond to vandalism and public safety issues on the Fishing Access Site.*

Prior to the development of this EA, the DNRC released a checklist EA in May of 2006, which discussed the potential change of use from a home/cabin site to a public recreation area and received 21 responses. There was overwhelming public support for conversion of this property to a Montana Fish, Wildlife & Parks FAS.

**Some of the issues cited by those favoring the proposed action in the DNRC EA include:**

- 1) This would provide funding for the school trust as well as public benefits beyond other uses for the site. It would be a greater good for all Montana's public and schools. *Response: Comment noted.*
- 2) The FAS would protect the riparian areas along the river from overgrazing by open range livestock and it would provide much needed recreational access to that stretch of the Missouri River between Cascade and Ulm. *Response: Comment noted.*
- 3) It would provide a more convenient floater take-in and take-out downstream of Cascade. *Response: Comment noted.*
- 4) It will spread recreational pressure out during the summer months. *Response: Comment noted.*

- 5) It will be an access that waterfowl hunters would find inviting in the late fall.  
*Response: Comment noted.*
- 6) I also talked with 3 different families that live in that area along the river and they support the FWP as well. *Response: Comment noted.*
- 7) We need fewer houses along the Missouri. We need to preserve what natural riverfront we have left. *Response: Comment noted.*
- 8) It isn't very often that the right thing, for a large group of people, can be done. This is one of those times. *Response: Comment noted.*
- 9) I cannot stress enough the importance of public access to the Missouri River, especially when we are seeing less and less access through private land as ownership changes. *Response: Comment noted.*
- 10) Although this is a rather unique transaction, it is also a very important and timely action that will have long-term and positive benefits for public access and recreation as well as for the DNRC and the Department of FW&P. *Response: Comment noted.*
- 11) Development of riverfront property has already impacted fishing access in many areas and there is no reason to believe that this trend is going to subside in coming years even though we have some very strong access laws. *Response: Comment noted.*
- 12) Our organizational mission deals with Kids and as such we need to preserve their access to the river in the future. *Response: Comment noted.*
- 13) I believe that the tract would be better managed for weeds by FWP since they have the resources and expertise to control the existing weed problem.  
*Response: Comment noted.*
- 14) The tract has a high value for public recreation, especially since there is limited river access in this river reach. *Response: Comment noted.*

## **Decision**

Based on the analysis in the EA, along with all public comments received, Montana Fish, Wildlife & Parks has decided to proceed with Alternative B as stated in the draft Environmental Assessment. Through this alternative, FWP would lease the 22-acre property from DNRC. Greater public access will be achieved on the Missouri River between Cascade and Ulm and more recreational options will be available.

FWP would manage the FAS site for public access on a day use only basis, with no overnight camping. Other public use regulations that will be imposed and posted on the leased acreage include:

- Campfires, smoking, and fireworks are prohibited.
- Closed to public entry and use from 60 minutes after sunset to 60 minutes before sunrise.
- Discharge of firearms and weapons prohibited, except for lawful hunting.
- Lawful hunting will be permitted.

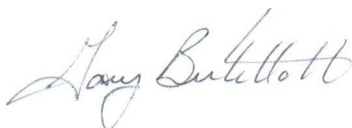
FWP will pursue a Public Railroad Right of Way Crossing Permit from the Burlington Northern Santa Fe Railroad (BNSF) to ensure legal public access across the railroad property. The site is currently accessible via a private railroad right of way crossing permit authorized by BNSF. Any future development of the Fishing Access Site would be subject to a separate Environmental Assessment.

FWP supports the general public's interest in providing additional access to public lands by making the Decision to lease the subject property and add it to FWP's inventory of public resources.

I have reviewed the EA and applicable laws, regulations, and policies and have determined that this action will not have a significant effect on the human environment. Therefore, an Environmental Impact Statement will not be prepared.

This action is subject to appeal, which must be submitted to the FWP Director in writing, and postmarked within 30 days of the date of this decision notice. The appeal must specifically describe the basis for the appeal, explain how the appellant has previously commented to the Department or participated in the decision-making process, and lay out how FWP might address the concerns in the appeal.

If you have questions regarding this decision notice, or the final EA, please direct requests and questions to: Mr. Gary Bertellotti, Region Four Supervisor, 4600 Giant Springs Road, Great Falls, MT 59405, (406) 454-5840.



Gary Bertellotti  
Region 4 Supervisor

9/18/2007

Date